FILED 2008 APR 28 PM 12: 20

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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| **UNITED STATES OF AMERICA,**<br>Plaintiff,<br>v.<br>**Gabriel YANEZ-Ayala,**<br>Defendant | Magistrate Docket No. '08 MJ 1319<br>COMPLAINT ~~FOR VIOLATION~~ OF:<br>Title 8, U.S.C., Section 1326<br>Deported Alien Found in the United States |

The undersigned complainant, being duly sworn, states:

On or about **April 26, 2008** within the Southern District of California, defendant, **Gabriel YANEZ-Ayala,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **28th** DAY OF **April 2008.**

Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

TLM

**CONTINUATION OF COMPLAINT:**
**Gabriel YANEZ-Ayala**

## PROBABLE CAUSE STATEMENT

On April 26, 2008, at approximately 3:30 P.M. Border Patrol Agent R. Ayon was performing line watch duties, in the Campo, California area of responsibility. Agent Ayon responded to a seismic sensor activation and found footprints leading into some brush. Agent Ayon followed these footprints and he encountered a total of 5 individuals attempting to conceal themselves. This area is located approximately ten miles east of the Tecate, California Port of Entry and approximately one mile north of the U.S./Mexico International Boundary.

Agent Ayon identified himself as a United States Border Patrol Agent and questioned all of the subjects as to their citizenship and immigration status. All subjects including one later identified as **Gabriel YANEZ-Ayala** admitted to having entered the United States without any immigration or travel documents that would allow them to be, or remain in the United States legally. All subjects including the defendant further admitted to being natives and citizens of Mexico. All five were arrested and transported to the Campo Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on **February 27, 2006 through San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant admits to being a citizen of Mexico. The defendant further stated to have entered the United States illegally without any documents that would allow him to enter or remain in the United States.